

**REMARKS**

Applicants acknowledge the Examiner's careful, independent review of their application and offer the foregoing amendments and the following remarks in an effort to place the application in condition for allowance.

Applicants acknowledge the Examiner's helpful suggested edits to claims 1 and 2. Applicants have added the expression "(MFR)" in new claim 5 (in claim 1, line 2, and also inserted "g/10 minutes" at claim 1, line 2), and also added "g/10 minutes" and a comma at line 4 in new claim 6 (old claim 2). The present application discloses the units of the melt flow rate at page 5, line 7 (substitute specification), original specification, same. The spelling of ratio is corrected in new claim 8 (old claim 4). These editorial amendments have no affect whatsoever on the scope of the claims presented for examination.

Applicants acknowledge the Examiner's consideration of the Preliminary Amendment filed herein on September 30, 2003.

Applicants understand the Preliminary Amendment filed herein on August 28, 2003 has been entered with respect to the Substitute Specification filed herein on January 29, 2004. Applicants can, if the Examiner deems it necessary, to re-submit the Preliminary Amendment of August 28, 2003 so as to ensure that it is entered with respect to the Substitute Specification. The Examiner is invited to contact Applicants' undersigned legal representative if there are any questions.

Applicants respectfully traverse the rejection of claims 1-4 under 35 U.S.C. §102(b) as anticipated by, or in the alternative, obvious under 35 U.S.C. §103(a) over U.S. Patent No. 5,849,653 (Dall'Occo et al.).

Applicants also traverse the rejection of claims 1-4 under 35 U.S.C. §102(b) as anticipated by, or in the alternative, obvious under 35 U.S.C. §103(a) over U.S. Patent No. 5,374,700 (Tsutsui et al.).

In each of the rejections, the Examiner has offered the view that the catalyst is substantially identical to one used in the present invention to prepare the ethylene and  $\alpha$ -olefin copolymer, and based on that hypothesis, has concluded the references disclose a resulting ethylene and  $\alpha$ -olefin co-polymer possessing the claimed properties.

Applicants respectfully submit the premise is misplaced in both instances, and respectfully submit the following points for the Examiner's review and consideration.

Applicants respectfully point out that the Tsutsui et al. reference describes a component (B) which is known to those skilled in the art as an aluminoxane as seen from column 8, lines 51-56. As disclosed in the Tsutsui et al. reference, aluminoxane can be produced, for instance, by allowing an organoaluminum to react with water or a salt containing water. Applicants invite the Examiner's attention to column 8, lines 59-65.

In a similar manner, Applicants respectfully submit that when the art is considered as a whole, it will be apparent that the Dall'Occo et al. reference also describes an aluminoxane compound. Even if, *arguendo*, in the Dall'Occo et al. reference, the component (B) comprised of an organometallic aluminum compound and water is used, it would have been apparent to those skilled in the art that the resulting compound is converted *in situ* to an aluminoxane. This is also independently seen from the above-discussed Tsutsui et al. reference.

On the other hand, the present claimed copolymer of ethylene and  $\alpha$ -olefin can be prepared using a different catalyst as disclosed in the present specification at page 17, lines 18-19, whereby both the copolymer is described and is enabled. As the present specification discloses, in a method of feeding the components of a metallocene olefin polymerization catalyst that may be used to produce an ethylene- $\alpha$ -olefin copolymer according to the present invention, the components can be fed, for example, using (under) an inert gas such as

nitrogen, argon and the like, or hydrogen, ethylene and the like under condition of no water, specification at page 17, third full paragraph, and the original specification at page 17, third full paragraph (last one before end of page), as examples. At page 16, Applicants' specification discloses an organoaluminum compound is preferably is triisobutylaluminum or tri-n-octylaluminum as disclosed in the substitute specification, page 16, penultimate paragraph, and original specification, page 16, lines 2 and 3 from the bottom. Accordingly, it will be appreciated by those skilled in the art that a catalyst useful in making the copolymers herein is not necessarily the same as either of the references, whereby it is respectfully suggested that the premise to each rejection should be reconsidered and withdrawn.

Applicants also invite the Examiner's attention to their Comparative Example 5, substitute specification commencing third line from the bottom, and the original specification page 36, starting at line 6. According to Comparative Example 5, a copolymer did not satisfy the claimed properties. The copolymer gives a film having a lot of fish eyes. The copolymer gives a film having high haze. The film has insufficient appearance. Applicants' Comparative Example 5 discloses PMOA solution was used (substitute specification page 36, lines 6-7; original specification page 36, lines 14-15). The original and substitute specification each disclose that according to Comparative Example 5, the relationship in Formula (3) and the relationship in Formula (4), as an example, are not satisfied, Specification at page 42. The film that is made according to Comparative Example 5 has fish eyes, Id.

Applicants respectfully submit Comparative Example 5 is evidence to rebut the conclusions expressed in the Office Action regarding the catalyst. Comparative Example 5 is evidence inconsistent with, and thus rebuts, the conclusion that the catalyst according to the references could catalyze a copolymerization to make the copolymers as claimed herein.

Applicants therefore respectfully submit their application is in condition for allowance.

Respectfully submitted,

Date: July 7, 2005



Kendrew H. Colton  
Registration No. 30,368

*OFFICIAL CORRESPONDENCE TO*  
*Customer No. 42798*  
FITCH, EVEN, TABIN & FLANNERY  
1801 K Street, NW, Suite 401L  
Washington, DC 20006-1201  
Tel: (202) 419-7000  
Fax: (202) 419-7007